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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,686	03/03/2005	Philippe Charrin	POLY 9187 US	5301

1688 7590 10/05/2006

POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/526,686

Applicant(s)

CHARRIN ET AL.

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/3/05 & 8/23/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 10-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/16/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. The election requirement mailed 8/7/06 contains inadvertent error (the wrong drawings considered by the Examiner) but nevertheless, an election requirement is still deemed proper. Instead of the species as listed in the election requirement mailed 8/7/06, the species should be:

Species A: as shown in figs. 1-4.

Species B: as shown in figs. 5-8.

Species C: as shown in fig. 9.

Species D: as shown in figs. 10-13.

Species E: as shown in figs. 14-15.

Species F: as shown in figs. 16-17.

Each one of the species as listed above has its own special technical features that are missing from the others. For example, species B includes two half-cones connected at their base with a hinge to form a body in the shape of a cone. Although Applicant believes that all species are of common concept based on their preamble of "a device for the presentation and preservation of flowers", it is the structure limitation of the claims that are distinguishable from each other, i.e. the special technical features. Therefore, the election of species requirement is deemed proper and hereby made FINAL.

In the response filed 8/23/06, applicant has elected species T, figs. 26-29 which corresponds to species B, figs. 5-8 as listed above. Therefore, species B will be

examined by the Examiner and claims 6-9 are believed to read on the elected species

B. Claims 1-5,10-18 have been withdrawn from further consideration due to nonelected species.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 6-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Welty (4223480) in view of Weder (6382418) and Hollenbach et al. (4216622).

For claim 6, Welty teaches a device that can be used for the presentation and preservation of individual bouquets of flowers allowing the flowers to be held at the level of a central vertical axis of the device, comprising: a circular base element 46 in a closed position; two half-cones 44 (see also col. 3, lines 17-25) assembled at their base with a hinge 42,48, wherein the hinge represents the diameter of the base element, a body in the shape of a cone corresponding to the juxtaposition of two flat parts of the two half-cones when the device is in the closed position, wherein the two halves are connected at the hinge by welding or the like; upper tabs (the handles at the upper edge or rim) at the top of the cone; and wherein, the introduction water is allowed through an orifice (opening of the device near the rim area) located at the upper part of the device. However, Welty is silent about the connection of the two halves are by a male and female means of closing the two half cones, and a watertight sheet placed under the

base element, which converges towards the central top of the device, wherein the watertight sheet is held by a first connection so as to hold the watertight sheet around the bouquet.

Hollenbach et al. teach a device that can be used for presentation and preservation of flowers, the device comprising two halves 20,21 that are connected together by male 25,31 and female 27,29 connection means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ male and female connection means as taught by Hollenbach et al. instead of the welding connection means of Welty in order to allow a user to disconnect the halves if he/she wishes.

Weder teaches a device that can be used for presentation and preservation of flowers, the device comprising a watertight sheet 95 placed under the device 82 which converges towards the central top and held by a connection 103. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a watertight sheet with connection as taught by Weder to wrap the device of Welty in order to provide a more decorative appearance to the device.

For claim 7, Welty as modified by Hollenbach et al. and Weder (emphasis on Welty) further teaches wherein the upper tabs at the top of the cone can serve as holding teeth for a connector. Note that the handles of the device of Welty can serve the function of a holder, i.e. holding teeth, for a connector if one was to be used.

For claims 8 & 9, Welty as modified by Hollenbach et al. and Weder is silent about wherein the device is made of recyclable plastic material or water-resistant

cardboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ recyclable plastic material or water-resistant cardboard as the preferred material for manufacturing the device of Welty as modified by Hollenbach et al. and Weder, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use (to prevent harm to the environment by using recycled products) as a matter of obvious choice. In re Leshin, 125 USPQ 416.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Son T. Nguyen', with a stylized, flowing script.

Son T. Nguyen
Primary Examiner
Art Unit 3643

stn